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James Madison and  
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By Gaillard Hunt.  
Washington, 1902.





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JAMES MADISON AND RELIGIOUS LIBERTY.

BY

GAILLARD HUNT,

DEPARTMENT OF STATE.

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## JAMES MADISON AND RELIGIOUS LIBERTY.<sup>a</sup>

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By GALLARD HUNT.

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The first public service performed by James Madison was in that remarkable Virginia convention which adopted the declaration of rights and the first written constitution of a free State. He was known to few of his colleagues and to those few merely as a promising young scholar, who had shown activity in the Revolutionary cause in his county. He was 25 years of age, small of stature, without attractiveness of countenance, with rustic manners, and was mastered by a shrinking modesty. In the informality of private conversation, however, he showed that he had an extraordinary knowledge of the science of government, and that he could, as one of his fellow-delegates expressed it, "throw out in social discourse jewels which the artifice of a barren mind would have treasured up for gaudy occasions." His bearing was marked by the unavoidable pedantry of a young man fresh from his studies, and these studies had in the years immediately preceding the convention been of a serious religious cast. In 1772 he completed at Princeton the post-graduate course, which was devoted chiefly to ecclesiastical subjects. His most intimate friends at college were men who became clergymen, or studied to become clergymen. They included Caleb Wallace, who began life as a Presbyterian minister and afterwards became a lawyer and judge of the supreme court of Kentucky; Samuel Stanhope Smith, also a Presbyterian divine, the first president of Hampden-Sidney College, in Virginia, and Witherspoon's successor as president of Princeton; his brother, Rev. John

<sup>a</sup>Authorities: The Writings of Madison (Hunt); The Works of Madison (Congressional Edition); The Madison Papers (Gilpin); Rives's Life and Times of James Madison, Meade's Old Families and Churches of Virginia, Conway's Life of Edmund Randolph, Department of State MSS., New York Public Library (Lenox) MSS., Virginia Historical Society MSS.

Blair Smith, who succeeded to the presidency of Hampton-Sidney, and William Bradford, who studied divinity, but chose a lawyer's career, and rose finally to be Attorney-General of the United States.

The interval between Madison's graduation from Princeton and his entering public life he spent in further religious research, a record of which remains in many letters on religious topics and in his elaborate notes on the Acts of the Apostles. When he stood for election to the first Virginia assembly, in 1776, the voters declared he looked more like a Methodist preacher than a budding statesman, and there is hardly room for doubt that he did early in manhood seriously test his adaptability for a clergyman's career.

The Virginia convention of 1776 was composed chiefly of men of mature years and established reputation, and Madison took no part in the proceedings except to offer one amendment to the first draft of the Declaration of Rights. As George Mason drew the declaration up it contained the following section on the subject of religious liberty:

That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, that all men should enjoy the fullest toleration in the exercise of religion, according to the dictates of conscience, unpunished and unrestrained by the magistrate, unless under color of religion any man disturb the peace, the happiness, or safety of society; and that it is the mutual duty of all to practice Christian forbearance, love, and charity toward each other.

Almost alone in this assemblage of wise men Madison saw the fundamental error contained in these words. According to his belief there could properly be no recognition of religious rights by tolerance; no man could properly be granted permission to worship God according to the dictates of his conscience, for this was every man's right. Moreover, the clause might easily be so twisted as to oppress religious sects under the excuse that they disturbed "the peace, the happiness, or safety of society."

Therefore he offered as an amendment this substitute:

That religion, or the duty we owe our Creator, and the manner of discharging it, being under the direction of reason and conviction only, not of force or compulsion, all men are equally entitled to the full and free exercise of it, according to the dictates of conscience; and therefore that no man or class of men ought on account of religion to be invested with



peculiar emoluments or privileges, nor subjected to any penalties or disabilities, unless under color of religion the preservation of equal liberty and the existence of the State be manifestly endangered.

If this section had been accepted in the form in which it was presented, future legislation on the subject of religion would have been estopped and the history of the struggle for religious freedom in Virginia would have ended here. Mason adopted so much of the amendment as eliminated the use of the word tolerance, and the clause came forth:

That religion, or the duty we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love, and charity toward each other.

The man who thus endeavored to sever at one first blow all connection between religion and the temporal power was himself an Episcopalian, although he was never a communicant in that or any other church. All his family surroundings were strongly Episcopalian. He was baptised in that church, his mother was a pious communicant, his father was an active vestryman, his cousin and friend, who bore the same name as himself, James Madison, of William and Mary, became the first Episcopal bishop of Virginia; his tutor before he went to Princeton, Thomas Martin, was rector of St. Thomas parish.

But at the time of the Revolution the Episcopal Church in Virginia was sunk in iniquity by the bad character of many of the clergy, and the dissenting sects were increasing in number and importance.

These sects had no legal right of existence, and especially in that part of Virginia where Madison lived they suffered persecution. An incident in his youth which made a deep impression on him was his standing with his father outside the jail in the village of Orange and listening to several Baptists preach from the window of the cell in which they were confined because of their religious opinions.

Madison's mental temper was neither radical nor warm, but his hatred for religious intolerance stirred him more nearly to passion than any other feeling he ever manifested. "That diabolical, hell-conceived principle of persecution," he wrote two years before the Virginia convention, "rages among us,

\* \* \* I have neither patience to hear, talk, or think of anything relative to this matter; for I have squabbled and scolded, abused and ridiculed so long about it to little purpose that I am without common patience." But his proposed amendment to the Bill of Rights, was in reality too radical for the time and jumped beyond the ideas of the leaders of thought in Virginia who were not yet prepared to follow him in saying that state interference in behalf of religion should be forever barred.

Eight years had elapsed since Madison's first service in the State legislature, when he became a member of the house of delegates in 1784. He was now a national character, certain of himself, and certain that when he spoke men would listen. He found in the assembly an inclination to yield to the sentiment throughout the State, which clamored by numerous petitions for legislation to insure a better provision for the clergy and their churches. The people had become careless of religious observances. The war had produced disordered conditions of society, and bad financial legislation had encouraged dishonest inclinations. It was argued that compulsory support of the churches would encourage church attendance and mitigate the existing immorality. It was Patrick Henry who brought in the bill for levying a tax for the support of teachers of the Christian religion, and many of the foremost men in the State approved of it, among them being George Washington, John Marshall, Spencer Roane, Philip Barbour, and Richard Henry Lee. Lee wrote to Madison from Trenton, where he was attending the sessions of Congress, November 26, 1784, that he considered the bill necessary because destruction of religion was being accomplished for want of a legal obligation to contribute to its support. Undoubtedly if the bill had come to a vote at this session of the assembly it would have passed by an overwhelming majority. The utmost concession that the opponents of the measure could secure was an agreement to postpone action upon it till the next session, in order that in the meantime the sense of the people might be taken. There was every reason to believe that they wished the bill to pass. The clergy favored it because they would profit by it, and the laity could see no harm in agreeing to a small tax for an apparently innocent purpose. If it had been left to Madison, there would have been no petitioning against the bill, for he believed the best policy to pursue was

to preserve silence. But the two brothers, George and Wilson Cary Nicholas, who were active adherents of Madison's party, disagreed with him, and represented to him that the petitions for the bill, which would certainly be circulated, ought to be met by a remonstrance against it. At their insistence, therefore, he drew up a Memorial and Remonstrance to the Honorable the General Assembly of the Commonwealth of Virginia. It was printed by the Phoenix Press in Alexandria in the form of a broadside, with space at the bottom for signatures, and the Nicholases sent it to their lieutenants in every corner of the State. It repeated and amplified the arguments against the bill which Madison had made in the assembly; but whereas his speech reached only the few scores of men who heard it, the printed remonstrance reached thousands who read it, and thousands signed it. There are few instances recorded where the tide of public opinion has been so completely turned by a single document as it was in this instance by Madison's remonstrance. When the assembly met again in the autumn of 1785 the copies of the memorial with signatures attached buried the bill out of sight, and no effort was made to resurrect it. On the contrary, an opposite sentiment had been awakened and Madison seized upon it and completed his victory by introducing and carrying to a successful passage Jefferson's famous religious liberty bill, which had lain dormant since 1779.

The arguments which Madison used to defeat the assessment bill were the arguments of a Christian. The question before the people was, he said, not whether religion was necessary to the welfare of mankind, but whether the establishment of religion as a part of the civil administration of the State was necessary to religion itself. The natural propensity of mankind was toward religion, but history showed that religion was corrupted by compulsory state establishment. The bill dishonored Christianity, which flourished without the assistance of human laws and in spite of opposition from them. No human policy had invented religion; it was, in fact, superhuman. To compel support of it by law would be tantamount to a confession that it could not stand on its own merits. "Pride and indolence in the clergy, ignorance and servility in the laity, in both superstition, bigotry, and persecution," had, he said, always followed church establishment.

Yet the act for religious freedom which was now passed would have been redundant legislation had Madison's amendment to the Virginia bill of rights, offered nine years before, been incorporated into the fundamental law of the State, for the gist of the amendment was that "no man or class of men ought, on account of religion, to be invested with peculiar emoluments or privileges," and Jefferson's law said hardly more than this.

The active and intimate cooperation in public life of Jefferson and Madison did not begin until the Constitution of the United States had gone into effect, but the brilliant flashing of Jefferson's mind has blinded the eyes of many historical writers to the steadier and more enduring illuminations of Madison, and they often attribute to Jefferson a far greater influence over Madison than he really possessed. Certainly he exercised no influence in Madison's efforts for religious freedom, for the two did not meet until after the Bill of Rights was adopted, and Jefferson was in Paris when Madison's remonstrance was written. The same exaggerated notion of Jefferson's mastery has caused agnostics to claim that Madison's personal views on religion were the same as theirs; but these views were formed before he knew Jefferson, and his was not a changeable nature. "The specious arguments of infidels," he wrote on one occasion, "have established the faith of inquiring Christians." He believed, however, in the untrammelled existence of religious sects and was fond of quoting Voltaire's aphorism: "If one religion only were allowed in England, the Government would possibly become arbitrary; if there were two, the people would cut each other's throats; but as there are such a multitude, they all live happy and in peace." "In a free government," Madison added, "the security for civil rights must be the same as that for religious rights; it consists in the one case in the multiplicity of interests and in the other in the multiplicity of sects."

So free from religious bias was he that in 1790 it was rumored he had become a Methodist, but Edmund Randolph, who knew him intimately, wrote of him as "the patron of the Protestant Episcopal Church." From the time of the Revolution until 1833, when the church now standing in the village of Orange was erected, St. Thomas parish had no rector; but Madison attended the services, which were irregularly held,

usually in the court-house, and always invited the visiting clergyman to his house.

His religious sympathies extended even to the Jews, who held him in high regard. After his retirement from the Presidency one wrote to him from New York (May 6, 1818):

I ought not to conceal from you that it affords me sincere pleasure to have an opportunity of saying that to your efforts and those of your illustrious colleagues in the convention the Jews in the United States owe many of the blessings which they now enjoy, and the benefit of this liberal and just example has been felt very generally abroad and has created a sincere attachment toward this country on the part of foreign Jews.

It is not in the state papers of a President that we expect to find religious expressions of real interest. Washington set the example in his inaugural address of invoking Divine favors upon the Government, and Adams and Jefferson decorously followed the precedent. Madison, too, fulfilled this obligation to the religious sentiment of the country, but on two occasions he allowed himself to make allusions to the struggle for religious liberty in which he had played the chief part twenty-five years before he became President. In his fifth annual message, after expressing gratitude for the prevailing tranquillity and prosperity, he added, "and, above all, for the light of Divine truth and the protection of every man's conscience in the enjoyment of it;" and in his last message he said the people "should be thankful for a government which watches over the purity of elections, the freedom of speech and of the press, the trial by jury, and the equal interdicts against encroachments and compacts between religion and the state."





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